IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

INCOME TAX APPEAL (L) No.367/2003.
WITH
NOTICE OF MOTION No.1313/2003.

The Commission of I.T. ..Appellant.

Vs.

M/s. Indexco International. ..Respondent.

Mr Ashok Kotangale with P.S. Sahadevan for the Appellant.

Ms V. B. Patel for the Respondent.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:17TH APRIL, 2007.

P.C.:-

1. Heard the learned counsel for the parties. In the present matter, the following substantial question of law is sought to be raised:

> Whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that order of CIT invoking it's power under Section 263 of the Act was void, ignoring the fact that the issues involved and reasons for which the proceedings u/s 263 of the Act were initiated are totally different from the subject matter and issues raised in appeal before the CIT (A)?"

2. We have perused the order of ITAT dated 28th June, 2002 as well as the order of CIT

dated 30th March, 1999 under Section 263 of the Income-tax Act for the assessment years 1993-94 and 1994-95.

3. The Tribunal by it's order has categorically observed that the assessee's own case for the assessment year 1992-93 has been accepted by the Department; as observed in para 18. There is no material to indicate that the said order is challenged before this Court.

4. Under the aforesaid facts and circumstances of the case and the fact that the same order has been relied upon for the years 1993-94 and 1994-95 by the Tribunal, we do not find any substantial question of law involved in the appeal. We, therefore, dismiss the appeal with no order as to costs.

5. In view of the dismissal of the appeal, the notice of motion does not survive, hence the same stands disposed of accordingly.

(V.C. DAGA,J.) **(DR.S. RADHAKRISHNAN,J.)**